

CHAPTER 7
PUBLIC RECORDS AND
FAIR INFORMATION PRACTICES

The Iowa law enforcement academy adopts, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules of Agency Procedure relating to public records and fair information practices which are printed in the first volume of the Iowa Administrative Code.

501—7.1(17A,22) Definitions. As used in this chapter:

"Agency." In lieu of the words "(official or body issuing these rules)", insert "Iowa law enforcement academy".

501—7.3(17A,22) Requests for access to records.

7.3(1) Location of record. In lieu of the words "(insert agency head)", insert "director". In lieu of the words "(insert agency name and address)", insert "Iowa Law Enforcement Academy, P.O. Box 130, Camp Dodge, Johnston, Iowa 50131".

7.3(2) Office hours. In lieu of the words "(insert customary office hours and, if the agency does not have customary office hours of at least thirty hours per week, insert hours specified in Iowa Code section 22.4)", insert "8 a.m. to 4:30 p.m., Monday through Friday, except for state holidays".

7.3(3) Request for access. In lieu of the first sentence, insert "Requests for access to open records may be made in writing or in person. The office may accommodate telephone requests where appropriate."

7.3(7) Fees.

c. Supervisory fee. In lieu of the words "(specify time period)", insert the words "15 minutes".

d. Search fee. If a request requires research or if the record cannot reasonably be retrieved, the requester will be advised of the fact. Reasonable search fees or retrieval fees may be charged where appropriate.

e. Advance deposits. Reletter paragraph "d" as "e."

501—7.6(17A,22) Procedure by which additions, dissents, or objections may be entered into certain records. In lieu of the words "(designate office)", insert "the Director, Iowa Law Enforcement Academy, P.O. Box 130, Camp Dodge, Johnston, Iowa 50131".

501—7.8(17A,22) Notice to suppliers of information. Insert at the end of this rule the following sentence: This notice will not be given in discovery requests, subpoenas, investigations of possible violations of the law, or similar demands for information.

501—7.9(17A,22) Disclosures without the consent of the subject.

7.9(1) Open records are routinely disclosed without the consent of the subject.

7.9(2) To the extent allowed by law, disclosure of confidential records may occur without the consent of the subject. Following are instances where disclosure, if lawful, will generally occur without notice to the subject:

a. For a routine use as defined in rule 7.10(17A,22) or in any notice for a particular record system.

b. To a recipient who has provided the agency with advance written assurance that the record will be used solely as a statistical research or reporting record, provided that the record is transferred in a form that does not identify the subject.

c. To another government agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if an authorized representative of such government agency or instrumentality

has submitted a written request to the agency specifying the record desired and the law enforcement activity for which the record is sought.

d. To an individual pursuant to a showing of compelling circumstances affecting the health or safety of any individual if a notice of the disclosure is transmitted to the last-known address of the subject.

e. To the legislative fiscal bureau under Iowa Code section 2.52.

f. Disclosures in the course of employee disciplinary proceedings.

g. In response to a court order or subpoena.

501—7.10(17A,22) Routine use.

7.10(1) Defined. “Routine use” means the disclosure of a record without the consent of the subject or subjects, for a purpose which is compatible with the purpose for which the record was collected. It includes disclosures required to be made by statute other than the public records law, Iowa Code chapter 22.

7.10(2) To the extent allowed by law, the following uses are considered routine uses of all agency records:

a. Disclosure to those officers, employees, and agents of the agency who have a need for the record in the performance of their duties. The custodian of the record may, upon request of any officer or employee, or on the custodian’s own initiative, determine what constitutes legitimate need to use confidential records.

b. Disclosure of information indicating an apparent violation of the law to appropriate law enforcement authorities for investigation and possible criminal prosecution, civil court action, or regulatory order.

c. Disclosure to the department of inspections and appeals for matters in which it is performing services or functions on behalf of the agency.

d. Transfers of information within the agency, to other state agencies, or to local units of government as appropriate to administer the program for which the information is collected.

e. Information released to staff of federal and state entities for audit purposes or for purposes of determining whether the agency is operating a program lawfully.

f. Any disclosure specifically authorized by the statute under which the record was collected or maintained.

501—7.11(17A,22) Consensual disclosure of confidential records.

7.11(1) *Consent to disclosure by a subject individual.* To the extent permitted by law, the subject may consent in writing to agency disclosure of confidential records as provided in rule 7.7(17A,22).

7.11(2) *Complaints to public officials.* A letter from a subject of a confidential record to a public official which seeks the official’s intervention on behalf of the subject in a matter that involves the agency may, to the extent permitted by law, be treated as an authorization to release sufficient information about the subject to the official to resolve the matter.

501—7.12(17A,22) Release to subject.

7.12(1) The subject of a confidential record may file a written request to review confidential records about that person as provided in rule 7.6(17A,22). However, the agency need not release the following records to the subject:

a. The identity of a person providing information to the agency need not be disclosed directly or indirectly to the subject of the information when the information is authorized to be held confidential pursuant to Iowa Code section 22.7(18) or other provision of law.

b. Records need not be disclosed to the subject when they are the work product of an attorney or are otherwise privileged.

- c. Peace officers' investigative reports may be withheld from the subject, except as required by the Iowa Code. (See Iowa Code section 22.7(5))
- d. Examination may be withheld as defined in Iowa Code section 22.19.
- e. Decertification requests or information concerning decertification procedures under Iowa Code section 80B.13(8) and 501—Chapter 6 of the Iowa Administrative Code.
- f. As otherwise authorized by law.

7.12(2) Where a record has multiple subjects with interest in the confidentiality of the record, the agency may take reasonable steps to protect confidential information relating to another subject.

501—7.13(17A,22) Availability of records.

7.13(1) General. Agency records are open for public inspection and copying unless otherwise provided by rule or law.

7.13(2) Confidential records. The following records may be withheld from public inspection. Records are listed by category according to the legal basis for withholding them from public inspection.

- a. Sealed bids received prior to the time set for public opening of bids. (Iowa Code section 72.3)
- b. Tax records made available to the agency. (Iowa Code section 422.20, 422.72)
- c. Records which are exempt from disclosure under Iowa Code section 22.7.
- d. Minutes of closed meetings of a government body. (Iowa Code section 21.5(4))
- e. Identifying details in final orders, decisions and opinions to the extent required to prevent a clearly unwarranted invasion of personal privacy or trade secrets under Iowa Code section 17A.3(1) "d."
- f. Those portions of agency staff manuals, instructions or other statements issued which set forth criteria or guidelines to be used by agency staff in auditing, in making inspections, in settling commercial disputes or negotiating commercial arrangements; or in the selection or handling of cases such as operational tactics or allowable tolerances, or criteria for the defense, prosecution or settlement of cases when disclosure of these statements would:
 - (1) Enable law violators to avoid detection;
 - (2) Facilitate disregard of requirements imposed by law; or
 - (3) Give a clearly improper advantage to persons who are in an adverse position to the agency.
 (See Iowa Code sections 17A.2 and 17A.3)
- g. Records which constitute attorney work product, attorney-client communications, or which are otherwise privileged. Attorney work product is confidential under Iowa Code sections 22.7(4), 622.10 and 622.11, Iowa R.C.P. 122.11, the rules of evidence, the Code of Professional Responsibility, and case law.
- h. Examinations and results. (Iowa Code section 22.19)
- i. Agency instructional outlines when disclosure would be prohibited by Iowa Code section 17A.2(7) "f."
- j. Criminal investigative reports. (Iowa Code section 22.7(5))

501—7.14(17A,22) Personally identifiable information. This rule describes the nature and extent of personally identifiable information which is collected, maintained, and retrieved by the agency by personal identifier in a records system as defined in rule 7.1(17A,22). Unless otherwise stated the authority for the Iowa law enforcement academy to maintain the record is provided by Iowa Code chapter 80B, the statutes governing the subject matter of the record.

For each record system this rule describes the legal authority for the collection of that information, the means of storage of that information, and indicates whether a data processing system matches, collates, or permits the comparison of personally identifiable information in one record system with personally identifiable information in another record system. The record systems maintained by the agency are:

7.14(1) *Law enforcement officer personal files.* The Iowa law enforcement academy is charged by Iowa Code chapter 80B to establish training and hiring standards and to certify individuals as law enforcement officers in the state of Iowa. Training records, law enforcement officer status, and personal questionnaires are necessary to accomplish the mandate of Iowa Code chapter 80B.

These personal files contain information about past and present law enforcement officers in the state. These files may contain hiring and termination information, personal questionnaires and status changes (required by rule 501—3.1(80B) and 3.2(80B) of the IAC), medical information showing compliance with 501—2.1(80B) and 2.2(80B) of the IAC as authorized by Iowa Code section 80B.11, criminal history data, restoration of citizenship records, pardon records, training records, test scores, disciplinary reports and evaluation reports prepared during recruit training, decertification requests, and investigative reports. These files may also contain published articles concerning an individual officer and other data relevant to a law enforcement officer's career in law enforcement. Some of these records may be confidential under Iowa Code section 22.7 or Iowa Code chapter 692. Law enforcement officer personal records are stored in both paper and computerized form.

7.14(2) *Decertification files.* These files are maintained pursuant to Iowa Code section 80B.13(8). These files contain requests or inquiries made by hiring authorities concerning decertification of a person who is certified as a law enforcement officer in the state of Iowa. The Iowa law enforcement academy also has independent authority pursuant to Iowa Code section 80B.13(8) to revoke a law enforcement officer's certification for conviction of a felony. These files may contain official administrative or court filings or records, investigative reports, criminal history data, and attorney-client work product concerning possible or impending litigation. Some of this information may be confidential under Iowa Code sections 17A.2 and 22.7, Iowa Code chapter 692, constitutional restraints, statute and the Code of Professional Responsibility. Except as previously noted administrative hearing filings or records and court records or filings are public records. This information is stored in paper and computerized forms.

7.14(3) *Litigation files.* These files or records contain information regarding litigation, or anticipated litigation, which includes judicial and administrative proceedings. The records include briefs, depositions, docket sheets, documents, correspondence, attorneys' notes, memoranda, research materials, witness information, investigation materials, information compiled under the direction of the attorney, and case management records. The files contain materials which are confidential as attorney work product and attorney-client communications. Some materials are confidential under other applicable provisions of law or because of a court order. Persons wishing copies of pleadings and other documents filed in litigation should obtain these from the clerk of the appropriate court which maintains the official copy. Copies of pleadings and other documents filed in litigation with the Iowa law enforcement academy may be obtained from the Iowa law enforcement academy during normal business hours as these documents are public records. These records are maintained in paper and computerized forms.

7.14(4) *Personnel files.* The agency maintains files containing information about present and former employees, families and dependents, and applicants for positions with the agency. These files include payroll records, attendance records, psychological testing results, biographical information, background investigative reports and fingerprint checks, medical information relating to disability, performance reviews and evaluations, disciplinary information, information required for tax withholding, information concerning employee benefits, affirmative action reports, and other information concerning the employer-employee relationship. Some of this information is confidential under Iowa Code sections 22.7(7) and 22.7(11) and Iowa Code chapter 692.

7.14(5) *Library user files.* These files contain information on individuals who have checked out books, films, tapes, etc. from the Iowa law enforcement academy library. This information is confidential pursuant to Iowa Code section 22.7(13). This information is kept in paper form and may appear in computerized form.

7.14(6) *Law enforcement class files.* These files contain information concerning individuals who have attended training classes established by the Iowa law enforcement academy. These files may con-

tain grade information, class rosters, class schedules, class tests, photographs of class members, and disciplinary information. Some of this information may be confidential pursuant to Iowa Code section 22.7. This information is kept in computerized and paper form.

7.14(7) *Implied consent training files.* These files contain information concerning those officers who are certified to invoke implied consent pursuant to Iowa Code chapter 321J. These files are public records and are accessible during normal working hours. This information is kept in computerized and paper form.

7.14(8) *Specialized instructor files.* These files contain information concerning individuals who have attended specialized training programs or through experience are qualified to instruct in specialized areas of law enforcement. These records may be retrieved by personal identifier or through class name. These records are kept in both computerized and paper form.

7.14(9) *Psychological testing.* These files contain information concerning a law enforcement applicant's test scores regarding cognitive and personality tests mandated by Iowa Code section 80B.11(5). In these files other psychological examinations requested by hiring agencies are also stored by a personal identifier. Some of this information may be confidential pursuant to Iowa Code section 22.7(19). Law enforcement officers interested in the results of their psychological testing should contact the hiring agency that authorized the testing. This information is maintained in both computerized and paper form.

7.14(10) *Contract file.* This file contains information concerning contracts between the Iowa law enforcement academy and outside agencies or individuals. Some of this information may be confidential pursuant to Iowa Code section 22.7(6). These records are kept in paper form or computerized form.

7.14(11) *Salary files.* These files contain information concerning financial data regarding payments made to permanent or temporary employees of the Iowa law enforcement academy. These records are maintained concurrently by the Iowa law enforcement academy, the Iowa department of personnel, and the Iowa department of revenue and finance. These records are kept in paper and computerized form.

501—7.15(17A,22) Other groups of records. This rule describes groups of records maintained by the agency other than record systems as defined in rule 7.1(17A,22). These records are routinely available to the public; however, the agency's files of these records may contain confidential information as discussed in rule 7.13(17A,22). The records listed may contain information about individuals. All records are stored on paper and in computer systems unless otherwise noted.

7.15(1) *Council records.* Agendas, minutes, and materials presented to the Iowa law enforcement academy council are available at the Iowa law enforcement academy, except those records concerning executive sessions which are exempt from disclosure under Iowa Code section 21.5 or which are otherwise confidential by law. Council records contain information about people who participate in meetings. This information is collected pursuant to Iowa Code section 21.5.

7.15(2) *Administrative records.* This includes documents concerning budget, property inventory, reservation and use of facility space, purchasing, yearly reports, office policies for employees, time sheets, printing and supply requisitions, and income sources such as psychological testing fees, petty cash, tuition, film rentals, and room rentals.

7.15(3) *Publications.* The office receives a number of books, periodicals, video tapes, films, newsletters, government documents, etc. These records are maintained in the library established pursuant to Iowa Code section 80B.15 for use by law enforcement training centers and institutions who have a two-year program in law enforcement. Some of these records may be protected by copyright law. Many of these publications of general interest are available in the state law library.

7.15(4) *Rule-making records.* Public documents generated during the promulgation of agency rules, including notices and public comments, are available for public inspection.

7.15(5) *Office manuals.* Information in office manuals such as the instructor outlines or policy manuals may be confidential under Iowa Code section 17A.2(7) "f" or other applicable provision of law.

7.15(6) *Office publications.* The agency maintains statistical reports and other written documentation to educate the public about the Iowa law enforcement academy to be used in program planning and budget projections.

7.15(7) *Legislative files.* These files keep a record of bills being considered by the Iowa legislature each legislative session. These records are public records and can best be obtained by contacting the Iowa house or senate bill rooms at the state capitol.

7.15(8) *Research files.* These files are kept as working files to research and scrutinize different concerns particular to law enforcement and the academy's training and rule-making obligations. Some of this information is confidential as attorney-client work product, as under Iowa Code section 17A.2, 22.7, or other applicable provisions of law.

7.15(9) *All other records.* Records are open if not exempted from disclosure by law.

501—7.16(17A,22) *Data processing systems.* None of the data processing systems used by the agency compare personally identifiable information in one record system with personally identifiable information in another record system.

These rules are intended to implement Iowa Code sections 22.11 and 80B.11.

[Filed emergency 6/9/88—published 6/29/88, effective 7/1/88]

[Filed 10/10/88, Notice 6/29/88—published 11/2/88, effective 12/7/88]